REMARKS

Applicants respectfully request reconsideration of the above referenced patent application in view of the amendments and remarks set forth herein, and respectfully request that the Examiner withdraw all rejections. Claim 1 has been amended. No claims have been canceled. No claims have been added. Thus, claims 1-10, 12-15, and 39-41 are pending.

REJECTIONS UNDER 35 U.S.C. §103

Claims 1-10, 12-15, and 39-41

These claims are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Boucher, US Patent No. 6,434,620 (hereinafter "*Boucher*"), "Introduction to the Remote Monitoring (RMON) family of MIB Modules" by Waldbusser, et al., (hereinafter "*Waldbusser*"), Kraslavsky, US Patent No. 5,699,350 (hereinafter *"Kraslavsky"*) and an alleged Official Notice of the Examiner (hereinafter "*alleged Official Notice*"). Without agreeing as to any propriety of the *alleged Official Notice*, Applicants traverse the above rejection for at least the following reasons.

Each of the claims is not obvious in light of *Boucher, Waldbusser* and *Kraslavsky*, based at least on the failure of the references to teach or suggest (emphasis added):

"A network interface, comprising:…

a network data transmit path to couple a host system to a network, **the network data transmit path leading to the network**; and

circuitry to:

receive and transmit network data for a host processor of the host system, the **transmitting network data via the network data transmit path to the network**;

intercept from among network data in the network data transmit path one or more packets from said host processor;…and

configure said initiation of the direct memory access transfers using a configuration information, wherein the circuitry **to determine said configuration information from a payload of said one or more packets**…"

as recited in current independent claim 1. The claim amendments are supported in the original disclosure at least by FIG. 3 and by paragraph [0023] of the specification.

The Office Action admits that *Boucher* fails to teach determining, from a payload of one or more data packets, configuration information for configuring periodic initiation of DMA, where the one or more data packets are intercepted from a network data transmit path of a network interface. Instead, the Office Action relies upon a tmpAggregateReportsGroup function in *Waldbusser* and/or a configuration packet in *Kraslavsky* as allegedly curing the failure of *Boucher* to teach such determining of configuration information.

Applicants provide the following comments to demonstrate the failure of *Waldbusser* and *Kraslavsky* to cure the admitted deficiencies of *Boucher*.

The tmpAggregateReportsGroup function of Waldbusser

With regard to *Waldbusser*, the relied-upon tmpAggregateReportsGroup function is merely described as being "used to provide the collection of aggregated statistical measurements for the configured report intervals." See, e.g. *Waldbusser* page 15, Section 4.11. Absent any additional description of the tmpAggregateReportsGroup function in *Waldbusser*, the function is only disclosed as a type of instruction which is called to collect reports of statistical measurements which have been aggregated for a particular interval.

However, the tmpAggregateReportsGroup function is not disclosed in *Waldbusser* as **actually configuring** the interval in question. On the contrary, *Waldbusser* page 6, lines 7-12 teaches that the interval for statistics is actually specified by a remote management station, rather than the relied-upon tmpAggregateReportsGroup function.

Nor does the tmpAggregateReportsGroup function in *Waldbusser* disclose providing **configuration information for configuring periodic collecting** of such aggregated reports. Moreover, *Waldbusser* fails to teach whether or how the

tmpAggregateReportsGroup function might be **intercepted from a network data transmit path** of a network interface, where the data transmit path **leads to a network**.

The configuration packet of Kraslavsky

Kraslavsky relates generally to a network interface board (NIB) 50 which monitors broadcast data of a local area network (LAN) 1000 and assigns a frame type to a detected protocol. See, e.g. FIG. 7A-7B and col. 12, lines 9-37. Reconfiguring frame type assignments includes NIB 50 determining whether a packet which is received from LAN 1000 is a configuration packet, by detecting whether the packet is addressed to NIB 50. See, e.g. *Kraslavsky* col. 18, lines 23-41.

Accordingly, the relied-upon configuration packet in *Kraslavsky* is disclosed as being **received from** LAN 1000, rather than being intercepted from some network data path of NIB 50 which is **leading to** LAN 1000.

Nor does *Kraslavsky* indicate whether or how any configuration packet might be intercepted from among network data in a network data transmit path of a network interface, where **the network data transmit path leads to a network**.

For at least the foregoing reasons, *Waldbusser* and *Kraslavsky* do not cure the admitted failure of *Boucher* to teach configuration information which is determined from one or more packets which are intercepted from among network data in a network data transmit path of a network interface, where the network data transmit path leads to a network.

By contrast, current independent claim 1 is directed to circuitry **to configure periodic initiation** of DMA transfers, the configuring using configuration information determined from one or more packets **which are intercepted from a network data transmit path** of a network interface, where the network data transmit path **leads to a network**. Even assuming *arguendo* that all other claim limitations are taught by *Boucher*, *Waldbusser* and *Kraslavsky*, which Applicants do not agree, the cited references

nevertheless fail to either teach or suggest at least one limitation of the invention as variously recited in independent claim 1.

Accordingly, independent claim 1 is non-obvious in light of *Boucher, Waldbusser* and *Kraslavsky*, as are any claims depending therefrom. For at least the foregoing reasons, Applicants request that the above 35 U.S.C. §103(a) rejection of claims 1-10, 12-15, and 39-41 based on *Boucher, Waldbusser* and *Kraslavsky* be withdrawn.

The Taking of Official Notice in Rejecting Claims 13 and 41

The Office Action variously asserts an *alleged Official Notice* in the rejection of claims 13 and 41. More particularly, the *alleged Official Notice* contends that it is well known to determine from configuration information, which is intercepted from among network data in a network data transmit path leading to a network, a first location in a memory for a first direct memory access transfer and a second location in the memory, different from the first location, for a second direct memory access transfer. The *alleged Official Notice* further contends that it is well known to append the first location a linked list after the first direct memory access transfer, and to append the second location to the linked list after the second direct memory access transfer.

As set forth in M.P.E.P. §2144.03(A), "[o]fficial notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of **instant and unquestionable demonstration as being well-known**" (emphasis added). Applicants traverse the *alleged Official Notice* for at least the following reasons.

As demonstrated in the discussion above, the cited references fail to teach the claimed configuration information which is intercepted from among network data in a network data transmit path leading to a network. Therefore, it is not instantly and unquestionably demonstrable as being well-known that the relied-upon features of *Waldbusser* and *Kraslavsky* – which have demonstrably failed to teach the claimed configuration information – might be used to determine a first location in memory and a second location in memory, or that such locations might be stored in a linked list.

If any subsequent claim rejection alleges that the same relied-upon features of *Waldbusser* and/or *Kraslavsky* teach the claimed configuration information, documentary evidence should be provided to clearly explain how such features of *Waldbusser* and/or *Kraslavsky* might be combined or modified to teach the particular limitations of claims 13 and/or 41.

CONCLUSION

For at least the foregoing reasons, Applicants submit that all pending objections and/or rejections have been overcome. Therefore, all pending claims are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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